

Chapter 2

Inspection and Compliance Program

The General Manual provides detailed information regarding general inspection and investigative procedures, along with a good discussion about the rulemaking process and the Safety Assurance and Compliance Program (SACP). However, there are some policies and procedures that are specific to the MP&E Discipline and warrant inclusion in this manual.

Allocation of Resources

The regional supervisors, along with the MP&E Specialist, are responsible for coordinating *special* MP&E assignments and activities within the region using national and regional data to allocate Inspector resources. The regional supervisors, through the MP&E Specialist, shall establish priorities appropriate to the urgency and seriousness of any alleged compliant, violation, or incident.

Inspectors are responsible for coordinating daily inspection activities to ensure adequate coverage of their territory. The Inspector should plan to visit all assigned inspection points within their territories as circumstances warrant, unless directed otherwise by Regional management. (See General Manual, Part IV, Chapter 2.)

MP&E Specialists and Inspectors should use available accidents and incidents statistics and trend analyses wherever possible to guide inspection activities and allocate resources. (See *Statistically Driven Inspection Guidance for Motive Power & Equipment Inspectors and Safety Specialists*, April 13, 2007—in Appendix E).

Regulator Inspection Point

Each Inspector will prepare and maintain an accurate Regular Inspection Point (RIP) list of inspection points for railroads within his/her assigned territory. The RIP list, and any subsequent changes to the list, shall be forwarded to the Regional Specialist. The Specialist is responsible for reviewing Regional RIP lists for accuracy.

Inspection/Activities Priorities

The allocation of resources will deviate from the desired goal because of unforeseen events. When these events occur, Regional Administrators, Deputy Regional Administrators, Specialists, and Inspectors will base their decisions on the following priorities:

1. Accident investigations;
2. Congressional compliant investigations;

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3. Waiver petition investigations;
4. Safety Assurance and Compliance Program - SACP;
5. Regular complaint investigations;
6. Sample locomotive/car inspections;
7. Steam locomotive - Boiler inspections;
8. Site-Specific (Routine) Inspections.

Accident Investigations

Refer to the General Manual, Part IV, Chapter 9 for agency policies and procedures. The Accident Branch has also produced written guidance for accident investigations. The following resources are available for assessing commodity hazards and rail equipment damage and can be provided to the On-Scene Coordinator:

Emergency Assistance:

■	Chemtrec	800-424-9300
■	Chlorep	703-527-3887
■	NACA Pesticide Safety	888-663-2155
■	Bureau of Explosives	202-639-2910
■	Poison Control Center	800-222-1222
■	National Response Center	800-424-8802
■	FEMA	202-646-2044
■	Nuclear Regulatory Commission	301-951-0550
■	Transportation Crisis Mgt Center	202-366-5270
■	FRA Public Affairs Office	202-493-6024

Congressional Complaints

Refer to the General Manual, Part IV, Chapter 8. Remember, the Inspector has **ten days** to complete the investigation and submit a written report of the findings to the Regional Office.

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Complaint Investigation Report Format:

The following format will be used to report all complaint investigations requiring a written report. To ensure consistency, the format will be used for both Headquarters and Regional assignments.

Inspectors and others assigned to complaint investigations are to send the report to the region electronically in either Word or WordPerfect, depending on regional requirements. The filename convention is the term "Report" followed by a space, followed by the complaint control number, i.e., Report L02-CSX-20031.

The "Synopsis" section of the final report is intended to serve two purposes:

1. It gives the reader a quick recapitulation of both the nature of the complaint and the results of the investigation; and
2. It is to be copied from the word processing document and pasted into the "Comments" section of the CCM file for the complaint.

In most instances, submission of a violation report is strongly advised when evidence of violation is disclosed as a result of a complaint investigation. There may, however, be circumstances in which a minor deviation from the standards does not warrant civil penalty recommendations. If an inspector uncovers evidence of non-compliance of a minor nature, and they do not believe a civil penalty is warranted, they must consult with their Regional Specialist.

FRA COMPLAINT INVESTIGATION REPORTS

The following narrative report guidelines must be used to write any FRA complaint investigation report that has been assigned a control number. The report should be concise and must cover all aspects of the investigation. It would typically be two to three pages long.

The report must be sent to your region electronically using the following filename convention: The term "Report" followed by a colon and space, followed by the complaint control number, i.e., Report: L02-CSX-20031.

A. Summary

As the examples below illustrate, write one paragraph consisting of three sentences stating, in general terms:

1. The nature of the complaint and either the name, organization, or the type of person who submitted it. Do not use a person's name in this section of the report.

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2. The results of the investigation.
3. The action taken.

Example 1: A complaint alleging violations of the Hours of Service Law by the BNSF railroad, was received from the United Transportation Union. The investigation disclosed evidence that BNSF was in violation of Federal law. A recommendation for civil penalties will be forwarded to FRA's Office of Chief Counsel.

Example 2: A complaint alleging violations of the Blue Signal Regulations by the IOCR was received from a railroad employee not represented by organized labor. The investigation disclosed evidence that IOCR was in violation of Federal regulations. A recommendation for civil penalties will be forwarded to FRA's Office of Chief Counsel.

Example 3: A complaint alleging an unsafe highway-rail grade crossing on the UP railroad at North Platte, NE, was received from a resident of that city. The investigation disclosed a need for maintenance at the crossing, but there was no violation of Federal regulations. The railroad has agreed to make all necessary repairs.

B. The Complaint

Write a concise but complete description of the complaint, including:

1. The name of the person submitting the complaint and, if applicable, the organization this person represents.
2. The date of the complaint letter and the location of the FRA office to which the complaint was mailed.
3. A summary of all details of the complaint, including:
 - a. A list of all alleged non-complying or unsafe conditions cited by the complainant.
 - b. The name of the railroad or other regulated entity involved.
 - c. The dates and times of the alleged unsafe happenings, if applicable.
 - d. The locations where the events allegedly took place, if applicable.
 - e. The names, job titles, and actions of the railroad employees involved, if applicable.

This would include the names of railroad employees who may have been required to perform duties in violation of Federal standards, as well as the names of the supervisory employees who may have required them to do so.

C. The Investigation

Summarize what you did during your investigation. This summary should be written in chronological order and must mention any inspections, interviews, discussions, records requested, photographs, etc., that were part of your investigation. Make certain that every

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issue mentioned in the letter from the complainant is addressed. Do not use more verbiage than is necessary to express what your investigation consisted of, but make sure you include all relevant information.

D. Action Taken

Describe the actions you took as a result of the investigation. This would include:

1. An explanation of what you did to satisfy each non-complying or unsafe condition mentioned in the section of the report entitled "The Complaint."
2. Contacting and explaining to the complainant why a violation of Federal laws or regulations did, or did not occur.
3. Facilitating correction of unsafe conditions that are not covered by Federal laws or regulations.
4. Identifying any violation reports you submitted, or are submitting, by violation number.

E. Conclusions:

Write a short summary stating:

1. Whether or not the complainant was satisfied.
2. Whether the allegations stated in the complaint were a one-time event or something that is likely to occur in the future.
3. Any follow-up actions that will be necessary, either by you or other FRA inspectors, to ensure compliance in the future. If the investigation disclosed a pattern of non-compliance, and additional FRA resources will be necessary to ensure compliance, state why you believe this to be the case.

Waiver Petition Investigation

All MP&E waiver petitions must be processed through the Washington, D.C., Headquarter's Office. Headquarters will assign a control number and publish the request in the *Federal Register* before transmission to the region for investigation. The region will then assign the waiver petition to an Inspector for investigation. Waiver petitions are handled pursuant to Title 49 CFR Part 211, which states that waiver decisions must be made not later than 9 months after receipt of the request. Therefore, the waiver investigation must be conducted in a timely manner. The Inspector will prepare an *Inspector Report Form for MP&E Petitions* and submit it to the Regional Office within thirty days. If the waiver petition investigation requires more than thirty days to complete, the Inspector will submit a memorandum or e-mail to the Regional Office detailing the delay. All recommendations from the Inspector and region must be supported with factual evidence, proof, and/or data,

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not opinions. *Caution:* The Inspector should never disclose to the petitioner what the recommendation will be, as the Railroad Safety Board has the final say. Refer to General Manual, Part IV, Chapter 7 for more details of the waiver process.

One-time Movements

From time to time railroads or equipment owners will request that FRA issue a “One-time Movement Authority” (OTM) to allow a non-complying car(s) or locomotive(s) to be moved for a specific purpose under specified conditions insuring for safety of the movement. It should be noted that FRA considers an OTM to be an exercise of its enforcement discretion in a limited number of specialized circumstances, and the granting of such authority does not relieve a party from any statutory liability applicable to such movements.

This authority is not necessary for equipment that can be moved under §215.9, §229.9, or §238.15 & 17 authority. FRA considers granting OTM’s under four categories:

OTM movement authority may only be granted on the following basis:

1. Positioning - For example, an over-age car or non-complying locomotive being moved to a railroad museum for permanent display, or non-complying equipment moved to ports for shipment to a foreign country;
2. Dismantling - A wreck-damaged car or locomotive that is deemed to be not economically repairable, or an over-aged or retired car or locomotive that needs to be moved to a scrap yard for dismantling;
3. Repair - Movement for repair requests are the most common, and also the most often denied of the four categories. For FRA to consider issuing authority for movement of non-complying equipment for repair, the circumstances related to the movement must be unique and/or the necessary repairs must require specialized facilities or personnel skills. For example, the nearest facility may not be equipped to fully effect the necessary repairs, such as heavily wreck damaged locomotives, or tank cars.
4. Prototypes - Special demonstrations and testing of prototype equipment.

To obtain “One-time Movement Authority” from FRA, a letter must be submitted on company letterhead to:

Mr. Edward Pritchard,
Director of the Office of Safety Assurance and Compliance
1120 Vermont Ave., N.W. Mail Stop 25
Washington, DC 20590

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If the OTM is strictly within the boundaries of a single FRA Region (considered “Regional-Local” OTM), the petitioner may submit the request to the attention of the Regional Administrator of the particular region, as follows:

Regional Addresses:

Regional Administrator
Federal Railroad Administration, Region 1
55 Broadway, Room 1077
Cambridge, MA 02142
(617) 494-2302
(617) 494-2967 FAX
(800) 724-5991

Regional Administrator
Federal Railroad Administration, Region 2
Baldwin Tower, Suite 660
1510 Chester Pike
Crum Lynne, PA 19022
(610) 521-8200
(610) 521-8225 FAX
(800) 724-5992

Regional Administrator
Federal Railroad Administration, Region 3
Atlanta Federal Center
61 Forsyth Street, S.W, Suite 16T20
Atlanta, GA 30303-3104
(404) 562-3800
(404) 562-3830 FAX
(800) 724-5993

Regional Administrator
Federal Railroad Administration, Region 4
200 West Adams Street, Suite 310
Chicago, IL 60606
(312) 353-6203
(312) 886-9634 FAX
(800) 724-5040

Regional Administrator
Federal Railroad Administration, Region 5
4100 International Plaza, Suite 450
Fort Worth, TX 76109
(817) 862-2200
(817) 862-2204 FAX
(800) 724-5995

Regional Administrator
Federal Railroad Administration, Region 6
901 Locust Street, Suite 464
Kansas City, MO 64106
(816) 329-3840
(816) 329-3867 FAX
(800) 724-5996

Regional Administrator
Federal Railroad Administration, Region 7
801 I Street, Suite 466
Sacramento, CA 95814
(916) 498-6540
(916) 498-6546 FAX
(800) 724-5997

Regional Administrator
Federal Railroad Administration, Region 8
703 Broadway, Suite 650
Murdock Executive Plaza
Vancouver, WA 98660
(360) 696-7536
(360) 696-7548 FAX
(800) 724-5998

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All request letters must be on company letterhead and contain the following information:

1. The reporting mark/number and the type of equipment (e.g. locomotive, covered hopper car, passenger car), for which the relief is requested, along with the corresponding Federal Safety Regulation [e.g., 49 C.F.R. 215.203(a)(1) *Restricted Cars*];
2. The status of the equipment, to include all non-complying components. State the cause of any damage (e.g., collision/sideswipe, grade crossing collision, derailment). Also, address any precautions taken to ensure the safety of railroad personnel during the move, such as removal of sharp edges, loose or crushed components, addition of temporary safety appliances and/or caution tape, roped-off stairway, etc.;
3. The point of origin and final destination of the equipment, including the specific route - to include any stops or layovers (such as for unloading and cleaning of tank cars) and all railroads that will be involved with the movement with the approximate mileage;
4. The rationale for the request (why the repairs can not be made at the current or nearest repair location);
5. Any restrictions the railroad or car owner believes should be applied to the movement;
6. The point of contact (name, address, telephone and fax number(s)) where the subject equipment is located, so that an FRA Inspector can schedule an inspection;
7. Name, title, address, telephone and fax number of the person requesting the OTM.

How to Expedite:

In order to expedite the process, the OTM request may be faxed to FRA's Headquarters in Washington, DC at (202) 493-6230, or if it is a "regional - local" OTM, the request can be faxed to the appropriate Regional office as noted on the previous page. The fax cover sheet should be addressed to the attention of the Staff Director, Motive Power & Equipment Division or the Regional Administrator, accordingly. However, the signed original request letter must in all cases be addressed to the Director of the Office of Safety Assurance and Compliance and mailed to the appropriate address, either Headquarters or the appropriate Regional Office.

Note: All OTM's that are to be made between Regions, and any export movements must be submitted to and processed by Headquarters, Washington, D.C.

OTM's that come through Headquarters will be handled by the Headquarters Staff. Headquarters will contact the appropriate region for an inspection of the equipment. The region will develop a report of findings, along with any recommendations regarding safety conditions or concerns. Headquarters will draft the final response letter and provide a copy of the letter to the relevant region prior to the movement taking place.

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“Regional - Local” OTM authority only within the boundaries of a single FRA Region, can be approved by the Regional management. The Region granting the OTM must provide an E-mail and/or Fax copy of the original request letter, along with a copy of the letter granting the authority to move the equipment (or denial), to the Director of the Office of Safety Assurance and Compliance, prior to the movement. The letter must use the same or similar format used by Headquarters for OTM’s, containing the following information:

1. The reporting mark/number and the type of equipment (e.g. locomotive, covered hopper car, passenger car), for which the relief is requested, along with the corresponding Federal Regulation for the OTM;
2. The status of the equipment, to include all non-complying components. State the cause of any damage (e.g., collision/sideswipe, grade crossing collision, derailment). Also, address all precautions required to ensure the safety of railroad personnel during the move, such as removal of sharp edges, loose or crushed components, addition of temporary safety appliances and/or caution tape, roped-off stairway, etc.;
3. The point of origin and final destination of the equipment, including the specific route - to include any stops or layovers (such as for unloading and cleaning of tank cars) and all railroads that will be involved with the movement with the approximate mileage; Any restrictions the railroad or car owner believes should be applied to the movement; and
4. The FRA point of contact (name, address, telephone and fax number(s)) for the petitioner to call in case there is an incident or to notify when the OTM is completed.

Regions must consult with Headquarters for appropriate OTM restrictions if mechanical engineering issues are in question.

Focused Enforcement

Focused enforcement entails concentrating enforcement efforts primarily on the types of violations most likely to cause an actual train accident or injury. FRA’s accident/injury database provides a wealth of information on what these leading causes of accidents and injuries are. The basic principle here is allocating our finite enforcement resources on those areas where improvements in compliance are most likely to produce maximum safety benefits. The principle is the same with regard to allocating inspection resources; as discussed in a separate document on inspections, we need to use available information on safety risk criteria to better guide our selection of inspection priorities.

FRA Inspectors shall utilize FRA’s accident, injury, and inspection data to gain better insight into the types of violations that are actually causing large numbers of accidents and injuries. While much of the information is already available to the field, FRA will distribute to the field data summaries showing the leading causes of train accidents and injuries by safety

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discipline, cause code, and regulatory section. The data will be industry-wide and broken down by railroad. With this information, Inspectors will be better equipped to weigh the discretion criteria concerning the inherent seriousness of violations and the level of risk posed in specific circumstances. This is not to suggest that enforcement decisions are to become entirely driven by data. Direct observations and experience will always be necessary elements of these decisions. However, because the agency has adopted certain performance goals linked directly to reducing the rate of certain unsafe events, we need to make better use of the data we collect to help guide our achievement of those goals.

In-depth accident analyses are conducted to determine if any laws, rules, or orders within FRA's jurisdiction have been violated and what remedial action should be taken. In addition, Inspectors must study accident trends in their inspection territory, especially those attributed to human factors and mechanical practices; to include inspections, tests and repairs. Information is available for each railroad in the Inspector's territory and will be helpful in outlining inspection plans and setting safety priorities. Site-specific inspections should be performed on the basis of each Inspector's knowledge of enforcement areas requiring more attention to ensure safety. An Inspector's knowledge of each railroad within the inspection territory should determine the types of inspections which must be performed. For example, if a recent human factors-caused accident was related to an improper air brake inspection, concentrated inspections of the railroad's air brake inspections should be conducted at various times throughout a 24-hour period, to include weekends. Where Inspectors are focusing on leading causes of accidents and injuries, their violation reports should summarize the factors underlying their decision.

In the meantime, Inspectors are encouraged to make use of data already at their disposal, including accident data, inspection data, and their own experience about the most important safety hazards. Inspectors should give this information great weight and strongly consider enforcement action whenever these especially unsafe conditions occur, with a goal of maximizing the safety return on enforcement efforts. While some enforcement actions will continue to be necessary on matters that are not likely to actually cause accidents or injuries, but violate regulations that are important underpinnings of an effective regulatory program (e.g., recordkeeping), those matters that are serious safety concerns are more likely to be the prime candidates for enforcement actions. Reporting, recordkeeping, and inspection violations become more important to the extent they are widespread and/or bear directly on compliance with substantive requirements.

Over time, this more careful focus on how enforcement discretion is exercised should significantly improve FRA's utilization of limited resources regarding compliance oversight. On the other hand, as we refine the process, we may decide to adopt a "zero tolerance" (i.e., always enforce) policy for the most egregious and flagrant violations. The goal is not to achieve a particular volume of enforcement actions on the high or low side. The goal is a

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compliance program in which enforcement discretion is routinely exercised in a commonsense way to address important problems that more cooperative methods have not resolved.

Complaint Investigation

Refer to the General Manual, Part IV, Chapter 8, for detailed procedures.

Complaints are generally filed by railroad employees, labor organizations, or the general public. The complaint may be submitted by either formal letter, e-mail, telephonic, or verbal format. Complaints may be referred by other State or Federal agencies. The Inspector assigned to a complaint investigation normally knows the identity of the complainant and the names of potentially helpful contacts. The investigation must be conducted without revealing to anybody that a complaint is or was under investigation. An Inspector may not, under any circumstances, reveal the identity of the complainant to anyone not employed by the FRA, unless:

1. The complainant authorizes such disclosure in writing; or
2. FRA refers the matter to the Attorney General (AG) for enforcement, discussion limited to persons within the AG's office. See 49 U.S.C. §20109.

The region will assign the complaint to an Inspector, who will complete the investigation within 60 days. If a complaint investigation cannot be completed in 60 days, the Inspector will write a memorandum or e-mail to the Regional Office explaining the reason(s) for the delay. Each five days thereafter, until completion of the complaint, the Inspector will submit a memorandum or e-mail to the Regional Office explaining the status of the complaint.

Sample Car/Locomotive Inspection

Sample Car/Locomotive Inspections are performed as a courtesy to the manufacturers, to ensure that the equipment is built in accordance with **all** applicable Federal regulations and requirements. Car builders that desire to have the FRA review their equipment for compliance with safety appliance standards are to submit their safety appliance arrangement drawings, prints, etc. to the FRA Office of Safety Assurance and Compliance for review, at least 60 days prior to construction. All requests and drawings should be submitted to the Director of the Office of Safety Assurance and Compliance at the following address:

400 7th Street, S.W.
Mail Stop 25
Washington, DC 20590

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FRA will review the documents submitted and advise the builder as to the status. The builder should then notify the Office of Safety Assurance and Compliance at least 30 days in advance of when the freight car will be ready for inspection. Once the request is received, Headquarters will coordinate with the appropriate Regional Office as to the date and location of a scheduled sample car/locomotive inspection. The Regional Administrator will appoint an experienced Inspector to conduct the inspection. If the location of the sample car/locomotive inspection is in Canada, the Regional Office shall coordinate the inspection activity with representatives from Transport Canada so that a joint inspection can be conducted.

The individual assigned to perform the sample car/locomotive inspection shall review in advance the current MP&E Sample Car/Locomotive Inspection Procedure Guidelines; pertinent regulations covering the type of car or locomotive to be inspected; and (if possible) the current Association of American Railroads (AAR) Manual of Standards and Recommended Practices or the American Public Transit Association (APTA) Standards applicable to the car or locomotive to be inspected. Inspectors should have the necessary equipment to perform the inspection (i.e., appropriate regulations and standards, gauges, camera, ruler, measuring devices, and the checklist which is provided in appendix.

The equipment inspected must strictly comply with the applicable sections of:

- ✓ 49 CFR Part 215 Freight Car Safety Standards
- ✓ 49 CFR Part 223 Safety Glazing Standards
- ✓ 49 CFR Part 224 Reflectorization
- ✓ 49 CFR 229 Locomotive Safety Standards
- ✓ 49 CFR 231 Safety Appliance Standards
- ✓ 49 CFR 232 Power Brake Systems
- ✓ 49 CFR 238 Passenger Car Equipment Safety Standards
- ✓ 49 CFR 239 Passenger Train Emergency Preparedness

In addition to regulatory requirements, the equipment should be examined from a standpoint of overall operational safety. Conditions not covered by regulations should be addressed in the assessment of the equipment. Photograph and describe in detail any condition detrimental to safety, or that has the "potential" to become a detriment to safety.

While performing the inspection of the brake system, it is important to examine the location of pertinent brake components which must be observed during the performance of required brake inspections by railroad Inspectors. The brake must be designed so that a railroad Inspector can observe from a safe position either the piston travel, an accurate indicator which shows piston travel, or any other means by which the brake system is actuated. The design shall not require the railroad Inspector to place himself or herself on, under, or between components of the equipment to observe the brake actuation or release during a required train air brake inspection.

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Unsafe and questionable conditions must be identified and reported to the car/locomotive manufacturer during the inspection.

FRA Form F6180.4, Special Inspection of Safety Appliance Equipment, will be completed for each type of equipment inspected. Normally a sample car inspection does not require an FRA F6180.96 report. A computerized version of the F6180.4 report has been developed for use with WordPerfect.

Each block of the F6180.4 shall be completed. Enter "N/A" in spaces that do not apply. If an appliance deviates from the standards, enter the dimensions or description in the appropriate space on the front of the form. Any deviation from FRA regulations must be documented on the F6180.4 report and reported to the builder's representative for corrective action. If necessary, a memorandum may be used to supplement the F6180.4.

The Hand Brake entry should include the manufacturer and model number.

The Handhold and Ladder Tread entries should show clear, usable length.

The Power Brake block should show the type of brake applied, such as WABCO - ABDWXL, or NYAB - ABDW, or an ECP brake system. Additional information may be included describing the brake system (i.e., 12 inch cylinder, empty- load sensing equipped, stand-alone or over-lay ECP system, etc.).

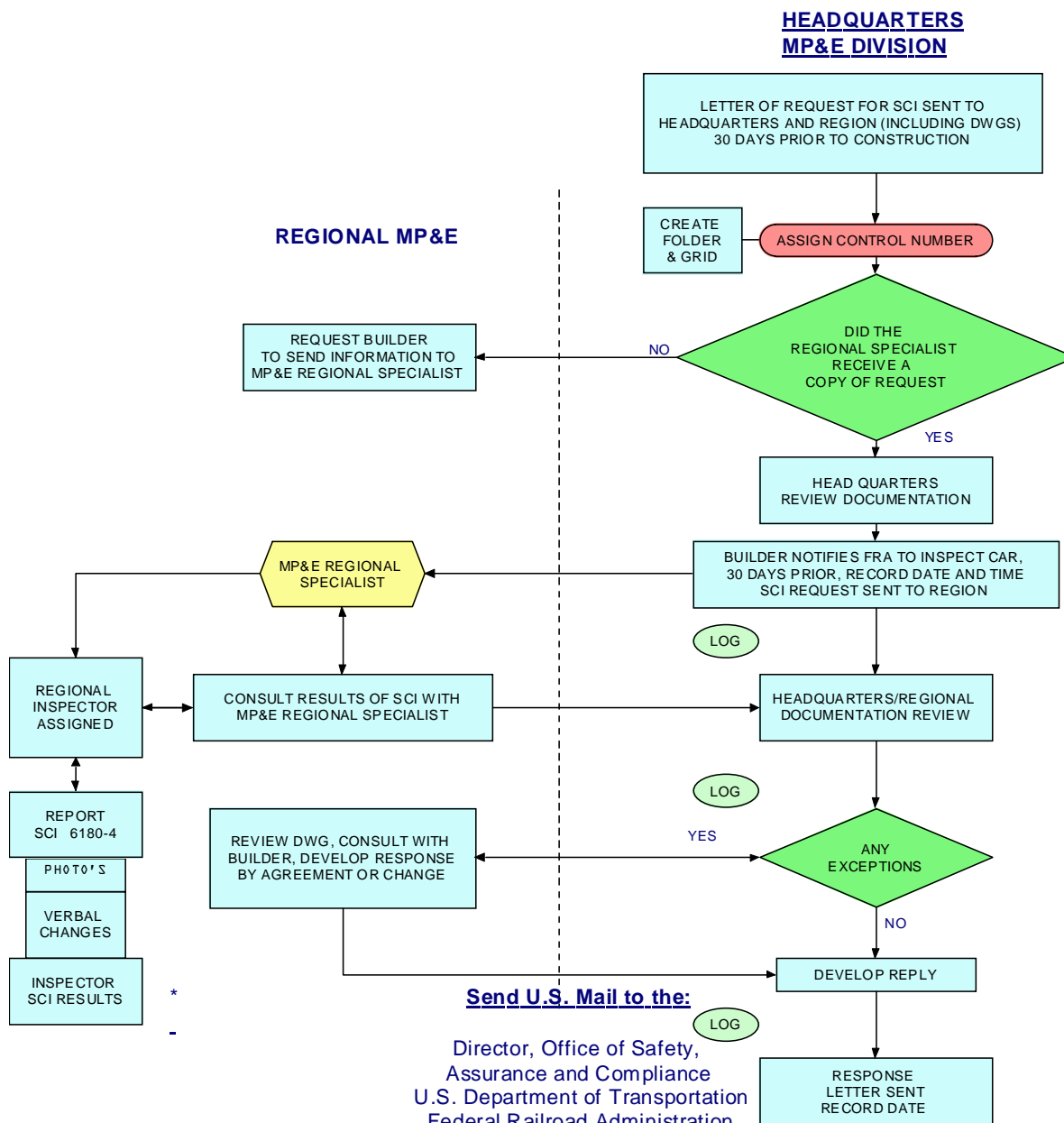
A minimum of six photographs must be supplied that clearly show the safety appliance arrangements and any non-complying conditions. Each corner of the car and both ends of the car. Also, any defect noted should have a photo to support it.

The Inspector should use the "sample car inspection check list" when performing the sample car inspection and submit a copy of the check list with the F6180.4 report in the package to HQ. The Inspector should also try to obtain a copy of the golden shoe test report, along with any other brake test reports, slewing reports, etc., and include the copies in the package that will be forwarded to HQ.

At the conclusion of the inspection, the Inspector should inform the car builder of the findings. However, the Inspector **is not to advise the builder that the "sample car" meets all Federal requirements.** Headquarters will advise the builder and the Region on the car's status of compliance or non-compliance. The Office of Safety Assurance and Compliance will provide the car builder, in writing, the results of the special car inspection

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SAMPLE CAR INSPECTION PROCESS Motive Power and Equipment Division



Regular Delivery
RRS-10, Mail Stop 25
400 Seventh Street, SW
Washington, DC20590-0002

Overnight Express Mail
1120 Vermont Avenue, NW
Suite 6
Washington, DC 20005

* To expedite processing also send via e-mail to the current MP&E Safety Appliance Specialist:
stephen.carullo@fra.dot.gov

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MP&E Safety Concern & Recommendation Report F6180.4A

During regular inspection of railroad rolling stock equipment the inspector may, or may not, be sure compliance has been achieved when encountered by a potential safety concern or systemic safety condition. Conditions where compliance is in question and warrant further investigation without removal of equipment from service should be reported by using this form. Answers to questions such as “has previous relief been provided by waiver, sample car inspection, or other regulatory process” when performing field inspections usually are not readily available. Inspectors are encouraged to complete this form of any potential safety condition for hazard that he/she is not sure of compliance but believe is or may be a safety concern.

The inspector shall contact his/her MP&E Specialist to determine, indeed, if it may be a safety concern. The Regional MP&E Inspector and MP&E Specialist will contact MP&E Headquarters to discuss the safety concern. If warranted, Headquarters will provide a FRA Control number to identify the safety concern.

Once determined by the Regional Specialist and Headquarters that the condition is a safety concern, a form F6180.4A will be completed. The form F6180.4A, *MP&E Safety Concern & Recommendation Report* will be completed for each potentially unsafe condition for tracking of each reportable defect. This F6180.4A *MP&E Safety Concern and Recommendation Report* is located at the end of chapter 2.

Once assigned the FRA Control number, the form F6180.4A report will be completed. Enter the information contained within the report and all blocks must be completed. Each field is expandable to assist the inspector to include additional information.


Photographs of a safety concern along with other tools necessary to help determine the condition should be included by attaching text or photography to the report.

Once the F6180.4A has been received at Headquarters, the Staff Specialist will contact the appropriate parties to discuss the issue and recommendation to bring the equipment into compliance or other regulatory process for resolution. In the event relief has been provided, a response will be sent to the MP&E Specialist and the matter will be considered closed.

F6180.4A reports submitted will be entered into a Headquarters database, and will be placed on the FRA secure site to monitor progress of each reported incident.

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OMB No. 2130-0565

 U.S. Department of Transportation Federal Railroad Administration		MP&E SAFETY CONCERN & RECOMMENDATION REPORT			
Inspector(s) Name:		Inspector ID:	Date:	Region:	FRA Control No.:
Built Date:		Type: (e.g. B, CH, AC, etc. use code from F6180.96 / RISPC table)			
Name of Builder and/or Owner:		Location of Builder and/or Owner: (City & State)			
Initial:	Number:	Were Concern(s) Recorded On F6180.96: <input type="checkbox"/> Yes <input type="checkbox"/> No			
		If Yes, Indicate Inspector Initials Followed by Inspection Report No.(s):			
Approximate Number Of Units With <input type="text" value="0"/> Reporting Marks:					
If Known, Approximate Number Of Units In Service With The Concern(s) Described Below:					
CFR Section And Text Reference: (Cite Complete CFR Section, TB, and Corresponding Text Description)					
Description Of Concern(s):					
Cite Any Safety Concerns, Known History Of Injuries/Fatalities/Derailments, etc. Associated With This Issue: (Names, Dates, Location, etc.)					
Inspector Recommendation(s):					

FRA F 6180.4a (11/04)

Pubic reporting burden for this information collection is estimated to average 60 minutes per response. This estimate includes the time for completing the inspection and filling-out this form. According to the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 2130-0565.

Operation Life Saver Presentations

Refer to the General Manual, Part VI, Chapters 1 & 2, for certification requirements and presentation guidelines.

Regular Inspections

Refer to the General Manual, Part IV Chapter 2 for detailed information regarding regular inspection activities.

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MP&E Inspectors are **not** required to announce their presence on railroad property, nor are they required to provide advance notice of an inspection, investigation, follow-up, or surveillance activity. However, advance notice may be necessary to insure the availability of records, equipment, carrier representatives, and/or persons to be interviewed.

Upon completion of an inspection, the Inspectors shall confer with a railroad representative to advise of any non-complying conditions or practices discovered by the inspection. The Inspector should cite the defective condition(s) and the applicable regulation that is in non-compliance. If time permits, a written report(s) will be given to a railroad representative before the Inspector leaves the railroad's property. If the railroad representative is not present, or the Inspector does not have sufficient time to complete a written report, then one shall be completed during the next work period and delivered or forwarded to the railroad representative.

When conducting an inspection at a remote location, where no railroad representative is available, a railroad official shall be contacted at the completion of the inspection and advised of the results.

The RISPC Program, F 6180.96: F 6180.96 Inspection Report preparation *is mandatory* for all inspections where civil penalty action (a violation report) is recommended. Federal Regulations require railroads to submit Notification of Remedial Action to FRA for all violations 30 days after the end of the calendar month in which notice of violation occurred. To complete the regulatory cycle, inspectors should complete the Remedial Action portion of the inspection report, as soon as the report (railroad copy), is received from the railroad. In this regard, it is required that inspectors update all inspection reports containing violations as soon as possible. This helps ensure the integrity of FRA's inspection report database and the regulatory requirements.

All defective conditions must be listed on FRA Form 6180-96. Inspectors must **not** create a separate F 6180.96 report for each violation taken during an inspection activity. The F 6180.96 report is designed so that the Inspector can list all of the defects taken for an inspection activity and identify which defect is being recommended for civil penalty by checking the appropriate box. When the violation box is checked "yes" on the F 6180.96 inspection report line item, some of the information is automatically transferred from the F 6180.96 inspection report to the FRA Form F 6180.109 violation report.

FRA Form F 6180.109: This report replaces all other MP&E violation reports previously used in connection with violation reporting of MP&E type violations, *except* for those associated with Parts 218 and 221. FRA Form F 6180.109 is a component of the RISPC v3.7 program and can be accessed from within RISPC or via a shortcut icon. FRA Form F 6180.109 will be used for the following violations:

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- Part 209 - Railroad Safety Enforcement Procedures
- Part 210 - Railroad Noise Emission Compliance Regulations
- Part 215 - Railroad Freight Car Safety Standards
- Part 223 - Safety Glazing Standards-Locomotives, Passenger Cars and Cabooses
- Part 224 - Reflectorization of Rail Freight Rolling Stock
- Part 229 - Railroad Locomotive Safety Standards
- Part 230 - Steam Locomotive Inspection and Maintenance Standards
- Part 231 - Railroad Safety Appliance Standards
- Part 232 - Brake System Safety Standards for Freight and Other Non-passenger Trains and Equipment; End-of-Train Devices
- Part 238 - Passenger Equipment Safety Standards
- Part 201 (40 CFR - Certain Noise Violations)
- Statutory Violations - USC 49 Subtitle V Chapters 203 & 207

Note: A narrative section is still required and shall be inserted in Item 44 (Violation Narrative) of the form. In most cases, the narrative will require the use of attachments. It is recommended that in Item 44 (Violation Narrative) the word “Attachments” be included at the bottom of the page, followed by a “Table of Contents” page, and then followed by all subsequent pages of attachments.

FRA Form F 6180.67: “Violation of Federal Railroad Safety Regulations,” is used to submit violation reports in connection with CFR Part 218 - Subpart C, Blue Signal Protection of Workers, and Part 221 - Rear End Marker Devices. FRA Form F 6180.67 is also used for other OP violations. Detailed instructions similar to these are also embedded in the RISPC program. Refer to those instructions for completing FRA Form F 6180.67. This form behaves in the same manner as FRA Form F 6180.109 and resides within the RISPC v3.0 program.

Submission of Photographs as Evidence: Photographs provide strong evidence in support of a violation. If photographs are included in the violation, the inspector will attach (mount) each photograph to a piece of paper and explain what each photograph shows (*be certain that the photo clearly depicts the defect and location of the defect(s) in question*). If photographs are part of the evidence, both the original and second copy of each violation report must have mounted photographs when they are submitted to FRA's Office of Chief Counsel. This is required so that when one copy is furnished to the respondent, the respondent will have the same evidence that the FRA has in its possession. Copies of digital photographs are acceptable, provided the inspector makes a statement in his/her violation report indicating the digital photographs have not been altered in any way.

Photographs, which have been altered in any way, must not be included as violation evidence.

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Statements of Witness or Reports of Interview:

- Unless a violation is substantiated by an inspector's personal knowledge or by records the FRA requires railroads to maintain, the violation report should be accompanied by Statements of Witness report(s) obtained from railroad employees, railroad officials, or other persons who know the circumstances surrounding the non-complying act or condition. If a statement is the only proof of non-compliance, the use of a "Witness Statement" is required.
- If "Reports of Interview" must be attached to violation reports, care must be exercised as this could result in unintentional FRA non-compliance with the requirements of Public Law which prohibits disclosure of railroad employees who report railroad safety violations without their written consent.

When using "Reports of Interview" to help ascertain the facts, policy requires that the inspector must:

- **Advise the person that the interview is voluntary;**
- **Advise the person that the interview will be attached to a violation report and submitted to the railroad or company when a penalty demand is issued; and**
- **Prior to submission, the interview report must be validated by the person being interviewed. This can be accomplished either by mail or hand delivery.**

Each "Witness Statement" or "Report of Interview" must contain the time, date, full name, title, and mailing address of the person who was interviewed.

Copies of Railroad's Records:

- When applicable, the violation report must be accompanied by legible copies of the railroad's applicable records, containing information that will provide the FRA's Office of Chief Counsel with substantiating documentation and a clear understanding of the violation of Federal safety regulations.
- This information may be submitted in the form of duplicated copies of the railroad's records or through comprehensive, word-for-word extracts taken from the railroad's records.

FRA's Jurisdiction Over Tourist and Excursion Railroads

As with many agencies of the federal government, the FRA does not extend the "full reach" of most of its regulations as far as the statute permits for either resource or policy reasons. To identify the agency's current policy regarding the scope of regulatory enforcement for certain types of railroads, FRA developed a set of guidelines. These guideline are meant to clarify the

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extent of and proper application for the jurisdiction that the agency chooses to exercise. The purpose for this chapter is to provide enforcement guidance for tourist and excursion railroads.

Guidance:

FRA will exercise jurisdiction over all tourist operations, whether or not they operate over the general railroad system, except those that are (1) less than 24 inches in gage and/or (2) insular. The FRA considers an operation insular if it is limited to a separate enclave in such a way that there is no reasonable expectation that the safety of any member of the public, except for a business guest, a licensee of a tourist operation or an affiliated entity, or a trespasser, would be affected by the operation. Therefore, an operation will not be considered insular if one or more of the following exists on its line:

- A public highway-rail crossing that is in use.
- An at-grade rail crossing that is in use.
- A bridge over a public road or waters used for commercial navigation; or
- A common corridor with a railroad, i.e., its operations are within 30 feet of those of any railroad.

Thus, the mere fact that a tourist operation is not connected to the general railroad system would not make it insular under these criteria. While these criteria will tend to sort out the insular theme parks and museums, there will still be a need to do case-by-case analysis in some close situations.

Regulation:

Tourist railroads are not required to comply with the requirements of either Title 49 CFR Parts 238 or 239. However, tourist railroads that operate on the general system must comply with all statutes and all regulations, unless and until any appropriate waiver has been applied for and granted. Of course, FRA generally lacks authority to waive statutory requirements.

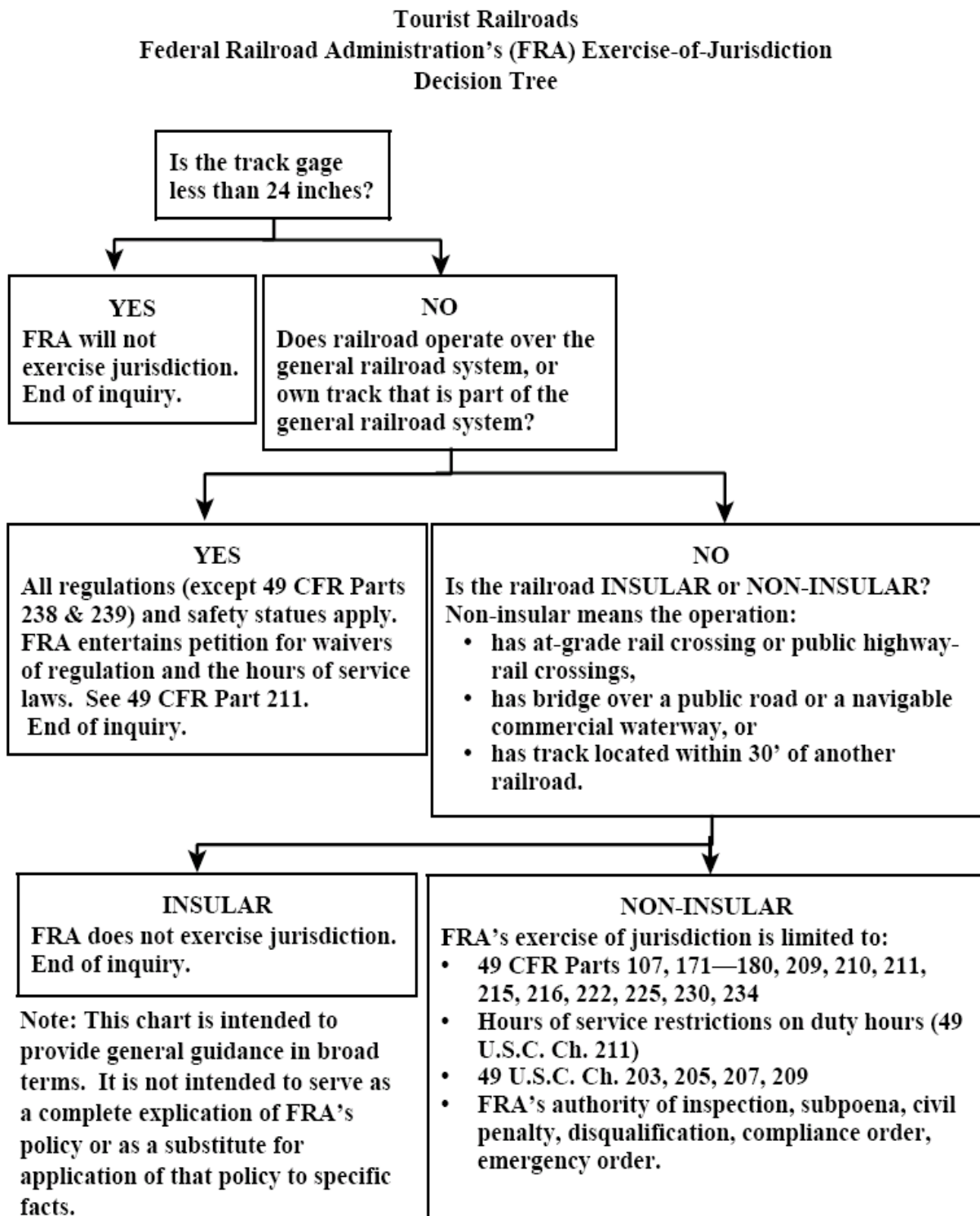
Some tourist railroads are neither insular nor part of the general system (i.e. stand-alone lines with no freight traffic.). In these instances only the following statutes apply:

- 49 USC §§ 20102, 20301, 20302, 20303, 20502-20505, 20701, 20902, 21302, 21304 (formerly 45 USC §§ 1, 2, 4, 9, 11, 13, of the Safety Appliance Act and 45 USC 22 *et seq.* of the Locomotive Inspection Act); and
- Federal signal inspection laws, 49 USC §§ 20102, 20502-20505, 20902, 21302, 21304

However, FRA's emergency order authority permits the agency to address a true safety emergency arising from specific conditions. Thus, even "off-the-system" tourist railroads should understand that FRA has the jurisdiction to inspect their operations, and to take emergency action if those operations pose an imminent hazard of death or injury.

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The following chart provides a general guidance in deciding the scope of compliance.



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Source Codes

The following source codes are the only source codes to be used by MP&E inspectors. When applying the appropriate source code on inspection reports, the inspectors should remember that FRA must, at all times, focus on the quality of inspection efforts. For many years, our estimates have indicated that we have the ability to actively monitor about two-tenths of one percent of railroad operations. Current data shows a similar relationship between railroad operations and FRA inspection capacity.

Please note that according to Technical Bulletin G-07-03, the selectable Source Codes have been reduced in the RISPC. Five codes have been eliminated and will generate error messages in the inspection reports if they are used. Those codes are:

F- Federal Assistance Investigation

G- Other

K- Inspection from Train

W- Focused Inspection

Y- Inbound Extended Haul Trains

In place of codes F, G, and W, please use Source Code D- Special Investigation. Source Code D does require that the File Number box be filled in. The previously used Source Code W for Focused Inspections or for Audits will now need to use Source Code D along with a unique File Number. The File Number should be descriptive and mean something to you. The File Number box has 18 characters to work with.

February 29, 2008, was chosen as the date for the new Source Codes to be in effect. Source Code W used after 2/29/2008 will show errors. If the report does not recommend a violation, then simply change the Source Code to D and add a File Number, then Save the report. It should now be Error-free. If the report contains a recommended violation and the report is locked, please call CITI, 888/ 372-9393 ext. 1, and ask for assistance in getting that changed without having to delete the violation report.

Please also note that the obsolete Source Codes still appear in the drop-down list in the current RISPC. They are left there for those reports ***before*** February 29, 2008, so they remain error-free. The codes that are no longer valid will be removed from the drop-down box at the end of calendar year of 2008.

MP&E - Source Codes

A: Regular inspection – A periodic inspection activity conducted by Federal and State railroad safety inspectors, in accordance with established procedures, to determine railroad, shipper, consignee, contractor, and manufacturing facility compliance with Federal statutes, rules, regulations, orders and standards within the jurisdiction of FRA.

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B: Complaint Investigation – Any inspection initiated for the purpose of performing a complaint investigation. A complaint file number must be assigned and indicated on the inspection report when this code is used.

C: Accident Investigation – Any inspection resulting from an accident/incident investigation. An accident file number must be assigned and indicated on the inspection report when this code is used.

D: Special Inspections or Investigations – Inspections initiated for a specific reason or purpose not otherwise identified. A file number must be assigned and indicated on the inspection report when this code is used.

E: Waiver Investigation – Inspections resulting from investigating requests for temporary relief from Federal regulations. A waiver investigation file number must be assigned and indicated on the inspection report when this code is used.

H: Nuclear Route Shipment – Inspections of nuclear routes or shipments as specified in the Safety Compliance Oversight Program (SCOP) Plan.

R: Reinspection – Inspection activity carried out to examine, monitor, or further develop previously conducted work. Inspectors must use good judgment when deciding the appropriate interval for the reinspection, taking into consideration factors such as the inherent seriousness of the non-compliance and the railroad's general level of current compliance as revealed by the original inspection as a whole. S&TC and Track Inspectors must also be governed by discipline specific guidelines. The File Number field must contain the Inspector ID and previous Inspection Report Number.

V: Inspection of or at Manufacturer's Facility – Inspection activities for the purpose of conducting a sample car or sample locomotive inspection at the manufacturing facility, in accordance with established procedures, to ensure that the equipment is built in accordance with all applicable Federal statutes, regulations, and requirements.

Z: Outbound Extended Haul Trains – Any inspection activity conducted on an extended haul train at the designated outbound inspection point by Federal and State railroad safety inspectors, in accordance with established procedures, to determine railroad and/or contractor's compliance with Federal regulations as prescribed in part 232.213 paragraphs (a)(2) through (a)(5). This code shall also be used for any inspection activity at locations where cars are added enroute to an extended haul train.

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Activity Codes

The following activity codes are the codes to be used by MP&E inspectors. When applying the appropriate activity code on inspection reports, inspectors should remember that the quality of the inspections and how the information regarding the inspections is captured is paramount to the inspection process. The information obtained from FRA's inspections are used to support rulemakings, waiver decisions, deployment of inspections, trend analysis, R & D projects, accident/incident analysis, and the overall condition of our Nation's railroads. In order to ensure that the data used for compiling statistics or for any analysis work is precise and consistent, inspectors need to adhere to the following guidelines when reporting the results of any inspections.

When conducting inspections for compliance with Parts 215 Freight Cars, 224 Reflectorization, 229 Locomotives, 230 Steam Locomotives, 231 Safety Appliances, 232 Power Brakes, and 238 Passenger Car Equipment, inspectors are required to inspect the entire car / locomotive / train in order to count that activity as a unit for the unit count of the inspection report.

However, there will be times when only one side of the car, or locomotive, or train can be inspected. This constitutes a partial inspection, which is the exception, not the normal inspection practice. If an inspector is unable to inspect the entire car / locomotive / train, the following action must be taken. The inspector must describe why only a partial inspection was performed in the line item description field (narrative) and the letter **P** must be entered in the class box of the line item. It must be **noted** that when the letter **P** is placed in the class box, every activity code used on the report will be captured as a partial inspection. Therefore, if the inspector performs an entire inspection of the locomotives on a train, but only inspects one side of the train (parts 215, 224, 231, 232), two inspection reports need to be made. One report for activity that received a complete inspection and one report for all activity that only received a partial inspection. Two inspection reports should also be generated when activity codes for § 218 Blue Signal Protection, § 221 Rear Markers, and § 223 Glazing are used in conjunction with partial inspections.

<u>Code</u>	<u>Regulation</u>	<u>Description for Use</u>
209	Remedial Action	Each time an inspector reports "remedial action not reported" by a railroad, one unit is taken for each incident.
215	Freight Car Safety Stds.	One unit to be taken for each freight car inspected, provided the entire car is inspected for compliance with Part 215. For articulated cars, <u>each platform</u> is counted as one unit.

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217E	Emergency Compliance	One unit taken whenever an inspection is conducted for compliance with an emergency order.
218M	Blue Signal Provisions	<p>An inspection conducted on any track that is not part of a locomotive servicing area or car shop facility, or has not been designated as a repair track, for compliance with blue signal protection. One unit is taken for each track that requires blue signal protection. However, if more than one train or cut of cars requiring protection is on the track, each counts as one unit.</p> <p>Each track inspected for compliance with blue signal regulations regarding remotely controlled switch and derails, combined with the recordkeeping requirements for that track, is counted as one unit.</p>
218S	Blue Signal–Repair Track	Each inspection for compliance with regulations requiring blue signal protection in a locomotive servicing track area or a car shop repair track area, or on a track that has been designated as a repair track or expedite track, is counted as one unit. If § 218.29(c), <i>Alternative methods of protection</i> , is being applied in a car shop repair track area or a locomotive servicing track area, one unit is counted for the entire area, regardless of the number of tracks in the area or the number of cars or locomotives on those tracks.
218U	Utility Employee Provisions	Each inspection for compliance with the utility employee rule provisions is counted as one unit.
218T	Tampering	Each locomotive “in service” that is inspected for tampering with safety devices is counted as one unit.
221	Rear End Markers	<p>Each train, or locomotive, or caboose inspected for compliance with the rear end marking device is one unit.</p> <p>Each inspection of rooms or locations where rear end marking devices are stored and/or recharged and maintained prior to being placed into service is one</p>

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		unit. Multiple rooms or locations within the same yard or facility are counted as one unit. Individual marking devices that are not attached to trains are not unit counts.
223	Safety Glazing	Each locomotive, caboose, or passenger car inspected for compliance with safety glazing standards (Part 223) is counted as one unit.
224	Reflectorization	Each locomotive or freight car inspected for reflectorization requirements is one unit.
229D	Diesel Locomotive	One unit is to be taken for each diesel locomotive inspected, provided the entire locomotive is inspected for compliance with Part 229.
229E	Electric Locomotive	One unit is to be taken for each electric locomotive inspected, provided the entire locomotive is inspected for compliance with Part 229. An “electric locomotive” is any locomotive that receives power from either overhead wire/paragraph or third rail. This does not include MU locomotives.
229M	MU Locomotive	One unit is to be taken for each MU locomotive inspected, provided the entire locomotive is inspected for compliance with Part 229. “MU locomotive” refers to self-propelled transit cars in commuter service in various large urban centers around the country. MU locomotive does not have the same meaning as the common vernacular used in the railroad industry, whereby the term is applied to any locomotive that can be coupled in a consist with other locomotives and controlled from a single control location.
229O	Other Locomotive	This code applies to any inspection made on a control car or a locomotive not powered by electric or diesel/electric (i.e.: propane) or any self-propelled highway/rail vehicle (such as those built by Trackmobile Inc., Shuttle Wagon, Mitchell Equipment Corporation and Brandt Roadrailer) used to haul revenue freight. One unit is to be taken for

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		each locomotive, car, or vehicle inspected, provided the entire piece of equipment is inspected for compliance with Part 229.
229R	Remote Control Loco.	This code applies to any inspection made on locomotives operating as a remote control unit. One unit for each locomotive inspected, to include the control box. Do not use this code when the remote control feature is not being used on the locomotive.
230	Steam Locomotive	Any inspection activity on a steam locomotive, except the observation of pressure testing the boiler. Each locomotive is one unit.
230T	Steam Loco. Boiler Test	An observation of a boiler pressure test on a steam locomotive, one unit.
231	Safety Appliances	Any inspection that is conducted for compliance with safety appliances, provided the entire car or locomotive is inspected for safety appliance compliance.
232	Air Brakes Insp - off air	Any car inspected for Part 232 compliance that does <u>not</u> have the brakes applied. One unit for each entire car or locomotive inspected.
232A	Air Brakes Insp - on air	Any car inspected for Part 232 compliance that has the brakes applied by either a service reduction or an emergency application, so that the functionality of the brakes and piston travel limits can be observed. One unit for each entire car or locomotive inspected for compliance with Part 232.
232E	End of Train Device	One unit for each inspection of an end of train device.
232T	Freight Air Brake Test	Any time a freight train air brake test is observed. One unit is to be taken when the entire brake test is observed for compliance with Part 232. This means observing the inspection of each car in the train, as well as the portions of the tests performed in the cab of the locomotive.

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232S	Freight Single Car Test	Monitoring a single car air brake test on a freight car. One unit for each test monitored.
238	Passenger Car Stds.	One unit to be taken for each passenger car inspected, provided the entire car is inspected for compliance with Part 238. Not to be used for air brake-related inspections.
238S	Passenger Single Car Test	Monitoring a single car air brake test on a passenger car. One unit for each test monitored.
238T	Passenger Brake Tests	Any time a passenger or commuter train air brake test is observed. One unit taken, only if the entire brake test is observed for compliance with Part 238.
MREC	MP&E Records	Inspection of records required by the various Federal regulations. One unit is taken for each record inspected, provided all of the requirements for each record is inspected for compliance.
NOIS	Noise	One unit is to be taken for each noise test performed in accordance with Part 210.
USC	United States Code	One unit is to be taken for each piece of equipment being inspected, for which the use of the United States Code or Statute is being applied.